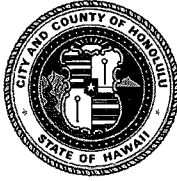


**OFFICE OF THE MAYOR**  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR

ROY K. AMEMIYA, JR.  
MANAGING DIRECTOR  
  
GEORGETTE T. DEEMER  
DEPUTY MANAGING DIRECTOR

August 19, 2015

RECEIVED  
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2015 AUG 19 PM 2:09

The Honorable Ernest Y. Martin  
Chair and Presiding Officer  
and Members  
Honolulu City Council  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Chair Martin and Councilmembers:

As you know, I continue to support the intent and purpose of the sit-lie laws, including Ordinance 15-1, Relating to Public Pedestrian Malls in the Downtown and Chinatown Areas (formerly Bill 62 (2014), CD2, FD1) ("Ord. 15-1"), which prohibits persons from sitting and lying in certain public malls in the Downtown and Chinatown areas to help ensure pedestrian access to businesses, shops, restaurants and other commercial enterprises.

It is, therefore, only after serious deliberation that I return to you, with my veto, Bill 44 (2015), Relating to Public Pedestrian Malls in the Downtown and Chinatown Areas ("Bill 44").

Bill 44 proposes to extend (1) the prohibitions against sitting and lying under Ord. 15-1, to College Walk Mall and Kila Kalikimaka Mall, and (2) the hours prohibit sitting and lying on Fort Street Mall to Sunday through Saturday, from 5 a.m. to 10 p.m., and on Union Mall to Sunday through Saturday, all hours.<sup>1</sup>

Bill 44 proposes amendments that unlawfully expand Ord. 15-1. Bill 44 clearly goes beyond the intent and purpose of Ord. 15-1 because it seeks to include malls that do not provide access to business or commercial activities.

The fact that the Department of the Corporation Counsel has refused to approve Bill 44 as to form and legality reflects that it contains legal deficiencies. As with Bill 6 (2015), CD1, FD1, Relating to Public Sidewalks ("Bill 6"), which I also vetoed after serious deliberation, the legal deficiencies of Bill 44 make it more likely that the City will be subjected to unnecessary legal challenges and to the payment by the City's taxpayers of costly attorneys' fees incurred by plaintiffs. As with Bill 6, I am gravely

<sup>1</sup> The prior hours of prohibition on Fort Street Mall and Union Mall were Monday through Friday, from 5 a.m. to 7 p.m.

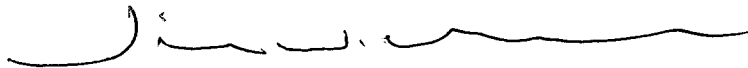
The Honorable Ernest Y. Martin  
Chair and Presiding Officer  
and Members  
August 19, 2015  
Page 2

concerned that the passage of Bill 44 may result in a challenge to the legitimacy of not only Ord. 15-1, but of other sit-lie laws such as Ordinance 14-26, Relating to Public Sidewalks (formerly Bill 42 (2014)).

Rather than attempting to expand the sit-lie laws, we should focus our collective energies and attention to working together to find, create, and provide affordable housing for all the people of the City, so that those less fortunate persons who live on the public rights-of-way have other options than simply moving into different public rights-of-way as more laws are passed.

For the reasons stated above, I am returning Bill 44 with my veto, and I urge you to sustain it.

Sincerely,

A handwritten signature in black ink, appearing to read "Kirk Caldwell", with a long horizontal flourish extending to the right.

Kirk Caldwell  
Mayor



## A BILL FOR AN ORDINANCE

RELATING TO PUBLIC PEDESTRIAN MALLS IN THE DOWNTOWN AND CHINATOWN AREAS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Council Findings and Purpose. The purpose of this ordinance is to prohibit, subject to exceptions, persons from sitting or lying on public malls in the Downtown Honolulu and Chinatown areas.

The Council finds that the closure of certain streets or parts thereof to vehicular traffic and the creation of public malls promote the movement, safety, convenience, enjoyment and entertainment of pedestrians in areas with high pedestrian traffic. Public malls also provide passageways for pedestrians to access a wide variety of commercial enterprises, meeting facilities, recreational areas, and public and private services. Maintaining the flow of pedestrian activity on public malls ensures walkability, and generally allows pedestrians to reach their destinations.

Sitting or lying on public malls is not the intended or customary use of public malls. Persons who sit or lie on public malls threaten their own safety and the safety of pedestrians, who are put at increased risk when they must avoid and navigate around persons sitting or lying on public malls, or from unsanitary conditions resulting therefrom. Pedestrians are discouraged from using and enjoying public malls, and from walking as a means of transportation or recreation if they know that they will be impeded by persons who are sitting or lying on the public malls.

SECTION 2. Section 29-\_\_\_.1, as enacted in SECTION 2 of Ordinance 15-1, is amended to read as follows:

**"Sec. 29-\_\_\_.1 Prohibition—Exceptions—Citations.**

- (a) No person shall sit or lie on a public mall, or on a tarp, towel, sheet, blanket, sleeping bag, bedding, planter, chair, bench, or any other object or material placed upon a public mall during the following hours:

(1) College Walk Mall. Sunday through Saturday, all hours.

[(1)] (2) Fort Street Mall. [Monday] Sunday through [Friday] Saturday from 5:00 a.m. to [7:00] 10:00 p.m.

[(2)] (3) Kekaulike Mall. Sunday through Saturday from 5:00 a.m. to 7:00 p.m.

(4) Kila Kalikimaka Mall. Sunday through Saturday, all hours.



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## A BILL FOR AN ORDINANCE

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[(3)] (5) Sun Yat Sen Mall. Monday through Friday from 5:00 a.m. to 7:00 p.m.

[(4)] (6) Union Mall. [Monday through Friday from 5:00 a.m. to 7:00 p.m.] Sunday through Saturday, all hours.

(b) The prohibitions in subsection (a) shall not apply to:

- (1) Any person sitting or lying on a public mall due to a medical emergency;
- (2) Any person who, as a result of a disability, is utilizing a wheelchair or other similar wheeled chair device to move about the public mall;
- (3) Any person sitting or lying on the public mall for the purpose of engaging in an expressive activity;
- (4) Any person sitting on the public mall while attending or viewing any festival, performance, rally, demonstration or similar event conducted on the public mall pursuant to a permit issued by the city;
- (5) Any person engaged in a maintenance, repair or construction activity on behalf of a governmental entity or a public utility;
- (6) Any child who is sitting or lying in a baby carriage, stroller, or carrier, or similar device, to move about the public mall;
- (7) Any person sitting on a chair or bench located on the public mall that is placed there by a public agency or pursuant to permit issued by the city;
- (8) Any person sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of the mall or enter a doorway or other entrance alongside the mall; and
- (9) Any person engaging in an authorized activity on the mall pursuant to a permit issued by the director of parks and recreation in accordance with department of parks and recreation rules.

(c) No person shall be cited for a violation of this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.



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## A BILL FOR AN ORDINANCE

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(d) As used in this section:

"College Walk Mall" means the same as "College Walk Mall" in Section 29-1.1.

"Expressive activity" means speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas, and for which no fee is charged or required as a condition of participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons; fundraising events; beauty contests; commercial events; cultural celebrations or other events the principal purpose of which is entertainment.

"Fort Street Mall" means the portion of Fort Street established as a pedestrian mall under Section 15-25.1(b).

"Kekaulike Mall" means the area of Kekaulike Street, between Hotel Street and King Street.

"Kila Kalikimaka Mall" means the area immediately adjacent to the parcel designated by TMK 1-7-026:010, from College Walk Mall to Aala Street.

"Mall," when used generally in this article, means collectively the College Walk Mall, Fort Street Mall, Kekaulike Mall, Kila Kalikimaka Mall, Sun Yat Sen Mall, and Union Mall.

"Sun Yat Sen Mall" means the same as "Sun Yat Sen Mall" in Section 29-1.1.

"Union Mall" means the portion of Union Street established as a pedestrian mall under Section 15-25.1(a)."



CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL 44 (2015), FD1

A BILL FOR AN ORDINANCE

SECTION 3. This ordinance takes effect upon its approval.

INTRODUCED BY:

Carol Fukunaga

DATE OF INTRODUCTION:

May 28, 2015  
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

~~APPROVED~~ this 19<sup>th</sup> day of August, 2015.

Vetoed - KCWC  
KIRK CALDWELL, Mayor  
City and County of Honolulu

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

ORDINANCE

**BILL 44 (2015), FD1**

Introduced: 05/28/15

By: CAROL FUKUNAGA

Committee: ZONING AND PLANNING

Title: A BILL FOR AN ORDINANCE RELATING TO PUBLIC PEDESTRIAN MALLS IN THE DOWNTOWN AND CHINATOWN AREAS.

Voting Legend: \* = Aye w/Reservations

06/03/15	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 8 AYES: ANDERSON, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. 1 NO: ELEFANTE.
06/15/15	ZONING AND PLANNING	CR-238 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
06/27/15	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
07/08/15	COUNCIL/PUBLIC HEARING	CR-238 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 6 AYES: ANDERSON, FUKUNAGA, KOBAYASHI, MARTIN, MENOR, OZAWA. 2 NOES: ELEFANTE, PINE. 1 ABSENT: MANAHAN.
07/15/15	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
07/23/15	ZONING AND PLANNING	CR-299 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
08/05/15	COUNCIL	BILL AMENDED TO FD1. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. CR-299 ADOPTED AND BILL 44 (2015), FD1 PASSED THIRD READING. 7 AYES: ANDERSON, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR*, OZAWA. 2 NOES: ELEFANTE, PINE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.

  
GLEN TAKAHASHI, CITY CLERK

  
ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER